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Electronically Filed On: July 28, 2014

10 *Attorneys for Shelley D. Krohn, Chapter 7 Trustee*

11

12 **UNITED STATES BANKRUPTCY COURT**

13

14 **DISTRICT OF NEVADA**

15

16 In re:

17 Case No. BK-S-12-14724-LBR
 18 Chapter 7

19

20 WILLIAM WALTER PLISE,

21

22 Debtor.

23 **SUPPLEMENTAL OBJECTION TO**
PROOF OF CLAIM NUMBER 20-2
FILED BY TENNILLE I. PLISE
PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 3007

24

25 Date of Hearing: August 28, 2014

26

27 Time of Hearing: 9:30 a.m.

28

Place: Courtroom No. 5, Second Floor

Foley Federal Building
 300 Las Vegas Blvd., S.
 Las Vegas, NV 89101

29

Judge: Honorable Linda B. Riegle

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31 Shelley D. Krohn, the Chapter 7 Trustee in the above-captioned bankruptcy case (the
 32 “Trustee”) by and through her counsel, Victoria L. Nelson, Esq. and Jacob L. Houmand, Esq., of
 33 the law firm of Nelson & Houmand, P.C., hereby files this Supplemental Objection to Proof of
 34 Claim Number 20-2 Filed By Tennille I. Plise Pursuant to Federal Rule of Bankruptcy Procedure
 35 3007 (the “Supplemental Objection”).¹

36

37 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11
 38 U.S.C. §§ 101-1532. The Federal Rules of Civil Procedure will be referred to as “FRCP” and

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1 The Supplemental Objection incorporates all of the arguments and evidence submitted in
2 support of the Objection to Proof of Claim Number 20 Filed By Tennille I. Plise Pursuant to
3 Federal Rule of Bankruptcy Procedure 3007 (the “Objection”) [Docket No. 730]. The
4 Supplemental Objection is based on the following Memorandum of Points and Authorities, the
5 Objection, the Declaration of Shelley D. Krohn in Support of the Objection to Proof of Claim
6 Number 20 Filed By Tennille I. Plise Pursuant to Federal Rule of Bankruptcy Procedure 3007
7 (the “Krohn Declaration”) [Docket No. 731], the Reply to Response to Objection to Proof of
8 Claim Number 20 Filed By Tennille I. Plise Pursuant to Federal Rule of Bankruptcy Procedure
9 3007 (the “Reply”) [Docket No. 738], and the Declaration of Victoria L. Nelson in Support of
10 the Supplemental Objection to Proof of Claim Number 20 Filed By Tennille I. Plise Pursuant to
11 Federal Rule of Bankruptcy Procedure 3007 (the “Nelson Declaration”), which is filed separately
12 and concurrently with this Court pursuant to Local Rule 9014(c)(2). The Supplemental
13 Objection is also based on the pleadings and papers on file herein and any argument that may be
14 entertained at any hearing on the Objection and the Supplemental Objection.²

Dated this 28th day of July, 2014.

NELSON & HOUMAND, P.C.

/s/ Victoria L. Nelson

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Trustee*

— (continued)

the Federal Rules of Bankruptcy Procedure will be referred to as "FRBP." The Local Rules of Practice for the United States Bankruptcy Court for the District of Nevada shall be referred to as the "Local Rules".

² The Trustee also requests that the Court take judicial notice of all pleadings filed in the above-referenced bankruptcy case pursuant Rule of Evidence 201, incorporated by reference by Federal Rule of Bankruptcy Procedure 9017.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**2 **I. INTRODUCTION**

3 On June 11, 2014, the Trustee filed the Objection to Proof of Claim Number 20 Filed By
 4 Tennille I. Plise Pursuant to Federal Rule of Bankruptcy Procedure 3007 (the “Objection”)
 5 [Docket No. 730].³ The Objection sought an order disallowing Proof of Claim Number 20 (the
 6 “Tennille Proof of Claim”) filed by Tennille Plise (“Tennille”), the alleged ex-spouse of William
 7 W. Plise (the “Debtor”). As set forth in the Objection, the Tennille Proof of Claim contends that
 8 Tennille is the holder of a domestic support obligation in the amount of four hundred twenty-five
 9 thousand dollars (\$425,000). On July 16, 2014, the deadline for the Trustee to file a Reply to the
 10 Response to the Objection, Tennille filed an amended proof of claim increasing the amount of
 11 the domestic support obligation from Four Hundred Twenty-Five Thousand Dollars (\$425,000)
 12 to Seven Hundred Fifteen Thousand Dollars (\$715,000) (the “Amended Tennille Proof of
 13 Claim”). A true and correct copy of the Amended Tennille Proof of Claim is attached to the
 14 Nelson Declaration as **Exhibit “1”**. The Amended Tennille Proof of Claim, like the Tennille
 15 Proof of Claim, simply attaches the divorce decree entered into with the Debtor as support for
 16 the domestic support obligation. The Amended Tennille Proof of Claim does not include any
 17 additional evidence substantiating the Two Hundred Ninety Thousand Dollar (\$290,000)
 18 increase in her purported domestic support obligation. In fact, counsel for Tennille indicated at
 19 the July 24, 2014, hearing on the Objection that he had no information as to the Two Hundred
 20 Ninety Thousand Dollar (\$290,000) increase in the Amended Tennille Proof of Claim. *See*
 21 Nelson Declaration. On July 24, 2014, counsel for the Trustee sent an email to the entire law
 22 firm of Johnson & Gubler, P.C. requesting documentation supporting the Seven Hundred Fifteen
 23 Thousand Dollar (\$715,000) domestic support obligation in the Amended Tennille Proof of
 24 Claim. A true and correct copy of the July 24, 2014, email to counsel for Tennille is attached to
 25 the Nelson Declaration as **Exhibit “2”**. Russell G. Gubler, Esq., the attorney that signed the
 26 Amended Tennille Proof of Claim on behalf of Tennille, was included on the July 24, 2014,

27 ³ Unless otherwise provided, all defined terms in this Supplemental Objection shall have the
 28 same meaning ascribed to them in the Objection.

1 email.

2 The Johnson & Gubler, P.C. law firm sat silent and waited until July 28, 2014, the
 3 deadline to file the Supplemental Objection, counsel for Tennille informed counsel for the
 4 Trustee that the basis for the additional Two Hundred Ninety Thousand Dollars (\$290,000) in the
 5 Amended Tennille Proof of Claim is based on the settlement of a lawsuit filed by Bank of
 6 George (“BOG”) against Tennille captioned *Bank of George v. Tennille Plise* (Case Number A-
 7 584256) filed with the Clark County District Court (the “BOG Litigation”). In the BOG
 8 Litigation, BOG sought to avoid transfers that were made pursuant to the Divorce Decree on the
 9 grounds that they were fraudulent. On June 3, 2011, Tennille and BOG entered into a settlement
 10 agreement, whereby BOG agreed to release all claims for relief in the BOG Litigation in
 11 exchange for the payment of Forty Thousand Dollars (\$40,000) and the return of certain Bank of
 12 George stock (the “BOG Stock”) held by Tennille (the “BOG Settlement Agreement”). A true
 13 and correct copy of the BOG Settlement Agreement is attached to the Nelson Declaration as
 14 **Exhibit “3”**. In an email dated July 28, 2014, counsel for Tennille informed counsel for the
 15 Trustee that the additional Two Hundred Ninety Thousand Dollars (\$290,000) is premised on the
 16 payment of the Forty Thousand Dollars (\$40,000) pursuant to the BOG Settlement Agreement
 17 and the return of the BOG stock, which Tennille alleges is valued at Two Hundred Fifty
 18 Thousand Dollars (\$250,000). A true and correct copy of the July 28, 2014, email from counsel
 19 for Tennille is attached to the Nelson Declaration as **Exhibit “4”**.

20 The question which must be addressed is how the settlement of a lawsuit of litigation
 21 seeking to avoid transfers made under the auspices of a sham divorce creates a domestic support
 22 obligation for Tennille. Furthermore, even if the avoidance of the transfers under the BOG
 23 Settlement Agreement somehow created a domestic support obligation, Tennille does not explain
 24 how the return of the BOG Stock entitles her to a domestic support obligation in the amount of
 25 Two Hundred Fifty Thousand Dollars (\$250,000) when she has repeatedly represented in
 26 declarations executed under penalty of perjury that the BOG Stock had no value. In fact, the
 27 BOG Settlement Agreement itself provides that Tennille believed that the BOG Stock had no
 28 value stating: “Defendant **[Tennille]** believes the value of the common stock in Plaintiff she

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1 ***owns is worthless***; however, Defendant [Tennille] hereby releases any and all interest that she
2 has in the common stock of Plaintiff.” *See* BOG Settlement Agreement, § 2 (emphasis added),
3 attached to the Nelson Declaration as **Exhibit “3”**.

4 Tennille has also repeatedly represented in declarations executed under penalty of perjury
5 that the BOG Stock had no value. On November 6, 2012, Tennille executed a Declaration In
6 Support of Opposition to Motion for Preliminary Injunction Freezing Certain Assets, and
7 Countermotion to Dismiss Claims Against Tennille I. Plise and Old Toll Road, LLC in the
8 adversary proceeding titled *Krohn v. Plise* (Case Number BK-S-12-01214-LBR) [Adversary
9 Proceeding Docket No. 46]: “I [Tennille] settled with the Bank of George for stock (which was
10 believed to be worthless) and for the amount that I believed it would cost me to attend trial.” A
11 true and correct copy of the Tennille Declaration is attached to the Nelson Declaration as
12 **Exhibit “5”**. Most egregious, Tennille states in her Declaration In Support of the Response to
13 Objection to Proof of Claim Number 20 Filed By Tennille I. Plise Pursuant to Federal Rule of
14 Bankruptcy Procedure 3007 [Main Bankruptcy Docket No. 737] that the BOG Stock has no
15 Value attesting: “However, instead of the full \$1.0 Million for Alimony, on or about October 29,
16 2008, I agreed to receive \$350,000; a piece of real property in Colorado, located at 8515
17 Hinsdale County Road, Colorado 8123 (the “Colorado Property”); a note for Cracked Egg; and
18 Bank of George Stock, ***which lost its value***.” *See* Docket No. 737, ¶ 7 (emphasis added). After
19 attesting in no less than three (3) separate documents (including the BOG Settlement
20 Agreement), it is absolutely inconceivable that Tennille now asserts that the release of the BOG
21 Stock entitles her to a domestic support obligation in the amount of Two Hundred Fifty
22 Thousand Dollars (\$250,000) when she has previously testified multiple times that the stock had
23 no value. Tennille, much like the many other individuals associated with this case, concocts
24 stories in whatever best serves her purpose at that time. Tennille must be held accountable for
25 attempting to defraud both this Court and the Trustee and the Trustee reserves her rights under
26 FRBP 9011 to request that the filing party be held in contempt for the fraudulent filing of the
27 Amended Tennille Proof of Claim. Furthermore, there is no evidence that the Forty Thousand
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1 Dollars (\$40,000) under the BOG Settlement Agreement came from Tennille.⁴

2 The Trustee now files this Supplemental Objection in order to disallow the Amended
3 Tennille Proof of Claim. This Supplemental Objection incorporates all of the arguments and
4 evidence submitted in support of the Objection. For these reasons and the reasons set forth in the
5 Objection, the Court should enter an order sustaining the Objection and the Supplemental
6 Objection and disallow both the Tennille Proof of Claim and the Amended Tennille Proof of
7 Claim.

II. LEGAL ARGUMENT

A. Standard for Objecting to a Proof of Claim

FRBP 3001(f) provides that “[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.” FED. R. BANKR. P. 3001(f). Upon objection, the proof of claim provides “some evidence as to its validity and amount” and carries over a “mere formal objection.” *Lundell v. Anchor Const. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). In order to overcome this presumption of validity, the objector must come forward with sufficient evidence and “show facts tending to defeat the claim by probative force equal to that of the allegation of the proof of claim themselves.” *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991). “If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence.” *Ashford v. Consolidated Pioneer Mort. (In re Consol. Pioneer Mort.)*, 178 B.R. 222, 226 (9th Cir. BAP 1995).

⁴ The Trustee is in the process of serving a subpoena on the person most knowledgeable of Johns & Durrant, LLP to obtain the source the proceeds that were used to satisfy any amount owing under the Bank of George Settlement. The Trustee has also requested that counsel for Tennille provide copies of the front and back of any checks that were issued pursuant to the BOG Settlement Agreement.

1 **B. The Supplemental Objection Incorporates All of the Legal Arguments Set Forth In**
2 **the Objection**

3 The Trustee hereby incorporates by reference all of the facts and legal arguments set forth
4 in the Objection. The Court should disallow the Amended Tennille Proof of Claim for the same
5 reasons as set forth in the Objection.

6 **C. In Addition to the Arguments Set Forth In the Objection, the Court Should**
7 **Disallow the Amended Tennille Proof of Claim Because the BOG Settlement**
8 **Agreement Did Not Create a Domestic Support Obligation**

9 The Amended Tennille Proof of Claim does not include any documentation supporting
10 the proposition that the BOG Settlement Agreement creates a domestic support obligation. The
11 Amended Tennille Proof of Claim does not contain sufficient information to overcome the
12 presumption of *prima facie* validity under FRBP 3002(f). *See* FRBP 3001(c)(1) (“Except for a
13 claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of
14 the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the
15 proof of claim.”); *see also In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005) (holding that the
16 failure to attach sufficient documentation in support of a proof of claim deprives the proof of
17 claim of its *prima facie* validity).

18 Tennille also does not cite any authority supporting the proposition that her decision to
19 settle the BOG Litigation created a domestic support obligation that is entitled to first priority in
20 the Debtor’s bankruptcy case. The central dispute in the BOG Litigation was that the transfers
21 pursuant to the sham Divorce Decree could be avoided as fraudulent transfers pursuant to
22 Chapter 112 of the Nevada Revised Statute (“N.R.S.”). Tennille’s argument that the settlement
23 of a fraudulent transfer action creates a domestic support obligation would render fraudulent
24 transfer actions seeking to avoid payments under collusive divorce decrees meaningless. In the
25 BOG Litigation, BOG was seeking to avoid transfers made by the Debtor to Tennille as
26 fraudulent transfers. Presumably, Tennille decided to settle the BOG Litigation in order to lessen
27 her exposure in the BOG Litigation. Such a settlement agreement should not be interpreted as
28 creating a domestic support obligation. Accordingly, the Court should enter an order sustaining

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1 the Objection and the Supplemental Objection.

2 **D. Even If the BOG Settlement Agreement Created a Domestic Support Obligation, the**
3 **Amended Tennille Proof of Claim Should Be Disallowed Because the BOG Stock**
4 **Had No Value and There Is No Evidence Supporting the Fact that Tennille Actually**
5 **Paid the Forty Thousand Dollars (\$40,000) Pursuant to the BOG Settlement**
6 **Agreement**

7 Even if the BOG Settlement Agreement somehow magically created a domestic support
8 obligation, which it did not, the additional Two Hundred Ninety Thousand Dollars (\$290,000)
9 claimed in the Amended Tennille Proof of Claim should be disallowed because (1) Tennille
10 concedes that the BOG Stock had no value, and (2) there is no evidence supporting her claim that
11 the source of the proceeds to pay the Forty Thousand Dollars (\$40,000) owing under the BOG
12 Settlement Agreement came from Tennille. It is disingenuous that Tennille repeatedly states in
13 the BOG Settlement Agreement and numerous declarations filed in the Debtor's bankruptcy case
14 that the BOG Stock had no value, and then now contends that the return of the BOG Stock
15 entitles her to a domestic support obligation in the amount of Two Hundred Fifty Thousand
16 Dollars (\$250,000). Despite what she may believe, Tennille cannot have it both ways. The BOG
17 Stock cannot be worthless when she enters into the BOG Settlement Agreement, and then worth
18 Two Hundred Fifty Thousand Dollars (\$250,000) when she is attempting to claim a domestic
19 support obligation. Either Tennille perjured herself when she executed numerous declarations
20 asserting that the BOG Stock was worthless, or she is attempting to defraud the Court and the
21 Trustee by now claiming that the return of the BOG Stock entitles her to a domestic support
22 obligation in the amount of Two Hundred Fifty Thousand Dollars (\$250,000).

23 To say that the credibility of Tennille is non-existent would be an understatement. There
24 is no evidence that Tennille was the party that paid the Forty Thousand Dollars (\$40,000) owing
25 under the BOG Settlement Agreement. This is especially the case when the Debtor, through his
26 alter ego entity 5550 Las Vegas, LLC, was paying for all of Tennille's legal expenses prior to the
27 filing of his bankruptcy case. The Trustee has requested copies of the check (both front and
28 back) issued by Tennille to satisfy the amount due and owing under the BOG Settlement
Agreement. The Trustee has also issued a subpoena to Johns and Durrant, LLP requesting

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1 copies of the checks, if any, that were paid by Tennille under the BOG Settlement Agreement.
 2 The Trustee reserves the right to supplement this Supplemental Objection once the relevant
 3 documentation has been received from counsel for Tennille and Johns and Durrant, LLP.
 4 Accordingly, the Court should sustain the Objection and the Supplemental Objection, and enter
 5 an order disallowing the Tennille Proof of Claim and the Amended Tennille Proof of Claim.

6 **III. CONCLUSION**

7 For the foregoing reasons, the Trustee respectfully requests that this Court enter an Order
 8 sustaining the Objection and the Supplemental Objection, disallowing both the Tennille Proof of
 9 Claim and the Amended Tennille Proof of Claim, and for such other and further relief the Court
 10 deems just and proper.

11 Dated this 28th day of July, 2014

12 **NELSON & HOUMAND, P.C.**

13 */s/ Victoria L. Nelson*

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 19 *Trustee*

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